



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

JRE  
Docket No: 8272-00  
18 December 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, widow of Subject, filed enclosure (1) with this Board requesting, in effect, that Subject's naval record be corrected to show that he was retired by reason of physical disability prior to his death.
2. The Board, consisting of Messrs. Cooper, Lightle and McPartlin, reviewed Petitioner's allegations of error and injustice on 7 December 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:
  - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
  - b. Enclosure (1) was filed in a timely manner.
  - c. Subject was evaluated by a medical board on 31 October 2000, and given a diagnosis of retroperitoneal renal mass. It was recommended that he be evaluated by a Physical Evaluation Board. In an addendum to the medical board report dated 22 November 2000, it was noted that Subject had developed severe complications from the surgery to remove the retroperitoneal mass, and recommended that medical board processing be expedited. On 4 December 2000, the Physical Evaluation Board made preliminary findings that Subject was unfit for duty because the mass, which it rated at 100%. Subject died on 5 December 2000, before acceptance of those findings.

## CONCLUSION:

Upon review and consideration of all the evidence of record, and especially the contents of the 22 November 2000 medical evaluation board reports, which indicate that his condition was severe, and contains a recommendation that Subject's case be expedited, the Board concludes Subject should have been retired by reason of physical disability prior to his death. Accordingly, the Board finds the existence of an injustice warranting the following corrective action.

## RECOMMENDATION:


a. That Subject's naval record be corrected to show that he was permanently retired by reason of physical disability on 4 December 2000, with a rating of 100% under VA code 7528, due to a retroperitoneal renal mass.

b. That Subject's record be further corrected to show that on 4 December 2000, with the consent of his spouse, he elected a children only annuity under the Survivor Benefit Plan, computed on the basis of the full amount of his retired pay

c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

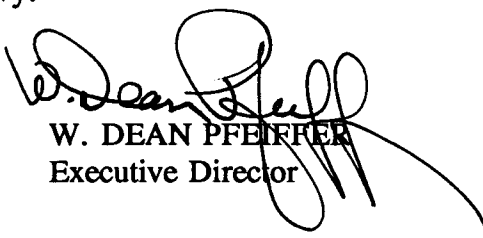
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



JAMES R. EXNICIOS  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER  
Executive Director



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18 December 2000

MRS. [REDACTED]  
[REDACTED]  
[REDACTED]

Dear Mrs. [REDACTED]:

This is in reference to your application for correction of your late husband's naval record submitted pursuant to the provisions of title 10 of the United States Code, section 1552.

The final decision in the case is set forth in the Board's report of proceedings, a copy of which is enclosed. The approved changes to your husband's naval record will be made by the Commander, Navy Personnel Command (NPC). After NPC makes these changes the Defense Finance & Accounting Service (DFAS) will review the record and make payment of any money that you may be entitled to. Questions concerning money paid and/or the manner of computation should be directed to DFAS-POCC/DE, 6760 E Irvington Place, Denver CO 80297-7000 or to your local disbursing officer. Also, you should immediately notify DFAS of any change in your mailing address.

Sincerely,

JAMES R. EXNICIOS  
Head, Disability Section

Copy to:  
Defense Finance and Accounting Service